BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking on the Commission's Own Motion to Assess and Revise the Regulation of Telecommunications Utilities.	Rulemaking 05-04-005 (filed April 7, 2005)
Rulemaking for the Purposes of Revising General Order 96-A Regarding Informal Filings at the Commission.	Rulemaking 98-07-038 (filed July 23, 1998)

PACIFIC BELL TELEPHONE COMPANY D/B/A AT&T CALIFORNIA'S (U 1001 C) COMMENTS ON DRAFT OPINION ADOPTING TELECOMMUNICATIONS INDUSTRY RULES

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Pursuant to Article 14 of the Commission's Rules of Practice and Procedure, Pacific Bell Telephone Company, dba AT&T California ("AT&T California") submits these Comments on Draft Opinion Adopting Telecommunications Industry Rules, issued on July 23, 2007.

I. INTRODUCTION

The Proposed Decision has completed General Order ("GO") 96-B with a comprehensive set of Telecommunications Industry Rules that appropriately coincides with the changes adopted in Phase I and II of the Uniform Regulatory Framework ("URF") rulemaking. With the exceptions outlined below, the Rules governing the filing, review and disposition of advice letters and information-only filings accurately reflect URF's competition-driven policy and light-handed approach to regulating the industry. AT&T California's recommended amendments refine each rule to ensure compliance with the new direction provided by URF.

II. LEGAL ARGUMENT

A. Industry Rule's Definitions Should Be Amended To Reflect URF Policies And/Or Avoid Confusion Due To Overbroad And/Or Vague Terminology.

1. Rule 1.10 – Resale Service

Under URF, retail services may be tariffed or non-tariffed.[1] URF Carriers retain an obligation to offer retail services, regardless of whether they are tariffed or detariffed, for resale. The current definition of "resale service" in GO 96-B erroneously suggests that the terms only refer to the resale of tariffed services. This definition would exclude a substantial number of telecommunication services once detariffing occurs. Accordingly, the definition should be amended as follows:

> "Resale Service" means a ~~tariffed~~ retail service that a Utility ~~carrier~~ offers to another carrier for resale.

2. Rule 1.15 – Utility

Rule 1.15's definition of utility is broad enough to include a wireless carrier because

[1] *See* Draft Opinion Consolidating Proceedings, Clarifying Rules for Advice Letters Under the Uniform Regulatory Framework, and Adopting Procedures for Detariffing ("Proposed Detariffing Decision"), pp. 38, 73 (Ordering Paragraph 3) (July 23, 2007).

wireless carriers are considered telephone corporations under California law. Unless stated otherwise, these Industry Rules direct telecommunications carriers that are required to file advice letters only, not wireless carriers. In order to avoid confusion, AT&T California recommends clarifying Rule 1.15 as follows:

> "Utility" means a public Utility that is a telephone corporation as defined in the Public Utilities Code, but for these rules excludes a commercial mobile radio service provider.

B. Rule 2, Governing Telephone Directories, Conflicts With The Current Requirement For Distribution To Public Libraries.

Rule 2's requirement that URF carriers provide copies of their current directories to Public Libraries conflicts with the current practice. Under current practice, AT&T California makes copies of its directories available without charge to public libraries upon request. Utilities are not required to take the proactive approach in ensuring inclusive distribution of its directories to all public libraries as suggested under Rule 2. Implementing such an obligation would be over-burdensome to the utilities. The Commission has decreased its regulatory burden under URF to reflect the current marketplace. There are no reasonable grounds for deviating from URF policies in this instance and imposing more stringent regulations. AT&T California proposes that the last sentence of Rule 2 be amended as follows:

> GRC-LECs and URF Carriers must ~~provide~~ make available without charge copies of their current directories to public libraries in California.

C. Rule 5, Governing Detariffed and Non-tariffed Services, Should Be Amended To Clarify Alternate Tariffing Requirements.

Rule 5 describes the scope of an URF carrier's authority to detariff a retail service or offer a non-tariffed service. An URF carrier is limited to detariffing in accordance with the scope of services that have full pricing flexibility in Decision 06-08-030. This is accurately reflected in Rule 5. However, there may be subsequent decisions that will append or alter the scope of services listed in Decision 06-08-030. Therefore, Rule 5 should be amended to reflect future decisions as follows:

> An URF Carrier may cancel by advice letter any retail tariff

currently in effect except for the following: Basic Service; 911 or e-911 service; a provision, condition, or requirement imposed by the Commission in an enforcement, complaint, or merger proceeding; a provision relating to customer direct access to or choice of an interexchange carrier; a service (such as Resale Service) not within the scope of services for which the Commission granted full pricing flexibility in Decision 06-08-030 or a subsequent decision by the Commission granting full pricing flexibility to other services;…

Rule 5 should also be amended to clarify that a carrier's authority to detariff does not affect an otherwise mandatory tariffing obligation under state or federal law. As indicated in AT&T California's Comments to the Proposed Detariffing Decision,[2] an URF carrier's authority to detariff is only limited by federal or state law if that law mandates that an obligation must be contained in a tariff. Moreover, Rule 5, as currently worded, is much broader than the Commission's intention.[3] In order to accurately reflect an URF carrier's limitations on detariffing, Rule 5 should read as follows:

… or a ~~provision pertaining to a~~ Utility's obligations as a ~~under state or federal law (such as California public policy surcharges or~~ Carrier of Last Resort~~)~~ or other obligations mandated by state or federal law to be included in tariffs.

Finally, the Commission appears to be using the terms detariffed and non-tariffed interchangeably when referencing new and existing services throughout the Industry Rules. In order to avoid confusion arising from using one or the other term, AT&T California suggests that the Commission clarify in the rules that these terms are used interchangeably to mean a retail service that is not tariffed or has been detariffed pursuant to Rule 5.

D. Rule 5.2's Requirement That URF Carriers Publish Archived Pricing Information On Their Website Does Not Offer Any Safeguards For Consumers.

As discussed in AT&T California's Comments on the Proposed Detariffing Decision, the requirement to post outdated rates, charges, terms or conditions is unnecessary, burdensome, and

[2] Comments of Pacific Bell Telephone Company on the Proposed Decision of Commissioner Chong Consolidating Proceedings, Clarifying Rules for Advice Letters Under the Uniform Regulatory Framework, and Adopting Procedures for Detariffing ("AT&T California's Comments on Proposed Detariffing Decision"), pp. 6-7 (Aug. 13, 2007).

[3] Ordering Paragraph 3.f. of the Proposed Detariffing Decision precludes detariffing of "[a] tariff containing obligations as a Carrier of Last Resort or other obligations under state and federal law."

counterproductive.[4] As a result, AT&T California recommends that the website archive requirement be eliminated and instead require carriers to maintain records of superseded rates, terms, and conditions for three years and provide that information to customers at no charge upon request. Accordingly, AT&T California proposes that Rule 5.2 be amended as follows:

> … The carrier must maintain ~~also publish at its Internet site an archive of~~ its canceled rates, charges, terms, and conditions, going back three years or to the date of detariffing, whichever is more recent, and make that information available at no charge upon request. The carrier must comply …

E. Rule 5.3 Should Not Govern Contractual Agreements Between Carriers and Business Customers.

Rule 5.3 governs notification requirements for non-tariffed services. As discussed in AT&T California's Comments to the Proposed Detariffing Decision,[5] the Commission should allow carriers and business customers to contractually agree to notice requirements that differ from those specified by the Commission. Therefore, the following sentence should be appended to Rule 5.3:

> The requirements of Rule 5.3 shall not apply in cases where a carrier and a business service customer contractually agree to different notice requirements.

F. Rule 5.4, Governing Market and Technical Trials, Is Inconsistent With The New Direction Provided By URF.

Rule 5.4 requires an URF Carrier to follow the guidelines of Resolutions T-14944 and T-16099 when submitting its information-only filing for market and technical trials. These resolutions, however, are replete with outdated filing requirements that conflict with the new direction provided by URF. For example, Resolution T-14944 requires AT&T California to "demonstrate that trial pricing complies with the unbundling and imputation requirements adopted in Decision 89-10-031," and "request approval to offer the service on a statewide basis" if market trial objectives are met."[6] Phase I of URF eliminated such requirements. Imputation, cost support, and pre-approval of new services are no longer required of products offered by

[4] *See* AT&T California's Comments on Proposed Detariffing Decision, pp. 7-9.
[5] *Id.* at 10-11.
[6] Resolution T-14944, Attachment 1 (Guidelines for Conducting Market Trials), p. 2 (June 17, 1992).

URF utilities.[7]

In order to properly correspond with URF, Rule 5.4 should be amended as follows:

> An URF Carrier must file an information-only filing that describes any ~~A~~ Market Trial or Technical Trial ~~must be submitted as an information-only filing, and must follow guideliens set forth in Resolution T-14944 (June 17, 1992) or Resolution T-16099 (December 16, 1997)~~. Such an information-only filing will be treated as confidential pursuant to ~~Resolution T-14944~~ General Rule 9.

G. Rule 5.5, Governing Commercial Mobile Radio Service Providers, Should Not Mandate Additional Consumer Protection Requirements Inconsistent With Decision 06-03-013.

Decision 06-03-013 adopted consumer protection rules that align California's regulatory regime with the interests of California consumers. That body of law contains an inclusive set of rules, regulations, and proceedings that work together to enhance consumer education programs and protect against fraud and abuse. It contains comprehensive disclosure requirements that all wireless carriers operating in California must satisfy.[8] The Commission should not modify those rules in GO 96-B by requiring that wireless carriers provide schedules to the public. If the Commission intends to alter disclosure requirements, it should do so by modifying Decision 06-03-013, not by adding additional disclosure requirements in Rule 5.5.

In Decision 06-03-013, the Commission found there are significant consumer protection laws and rules that protect our State's consumers from abusive telecommunications carriers. It held:

> Duplication of existing laws and rules may be inefficient and may create confusion. In many situations the existence of law and regulations precludes the need for further Commission action.[9]

Disclosure requirements, in particular, is an area of consumer protection that has been

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[7] *See Re Rulemaking to Assess and Revise the Regulation of Telecommunications Utilities*, Decision No. 06-08-030, *Opinion*, 2006 WL 2527822 (Cal.P.U.C. Aug. 24, 2006), *mimeo*, pp. 165, 169, 182-183, 192-193, 260-261 (Finding of Fact 4), 268 (Findings of Fact 79-80), 276 (Conclusion of Law 34), 277 (Conclusion of Law 45), 280 (Ordering Paragraph 8).

[8] *See*, *e.g.*, *Re Establishment of Consumer Rights and Protection Rules*, Decision No. 06-03-013, *Decision Issuing Revised General Order 168, Market Rules to Empower Telecommunications Consumers and to Prevent Fraud*, 2006 WL 768716 (Cal. P.U.C. Mar. 2, 2006), *mimeo*, p. 47, Appdx. A, p. A-3.

[9] *Id.* at 38.

given significant statutory attention.[10] Public Utilities Code section 2890.2, for example, requires wireless carriers to provide customers with a way that they can obtain reasonably current and available information on their calling plan and service usage. Imposing an additional disclosure rule in GO 96-B seems duplicative and unnecessary. Rule 5.5 should be amended as follows:

> A commercial mobile radio service provider may not file tariffs with the Commission ~~but shall make available to the public schedules showing its rates, charges, terms, and conditions of service~~.

H. Rule 7.1's Exclusion of Basic Service and Resale Service Conflicts With Decision 06-08-030.

Rule 7.1(5) currently states "[a] change by an URF Carrier to a rate, charge, term, or condition of a regulated service other than Basic Service or Resale Service." The Commission should amend this rule to accurately reflect the dictates of Decision 06-08-030 as follows:

> (5) A change by an URF Carrier to a rate, charge, term, or condition of a regulated service ~~other than Basic Service or Resale Service~~.

Basic service should not be exempted in this rule because Decision 06-08-030's restriction against pricing flexibility for basic service (that is not subsidized by CHCF-B) is lifted as of January 1, 2009.[11] Rule 7.1(5), as currently drafted, would almost immediately be outdated and require modification. In order to avoid the necessity for further modification of the text in Rule 7.1(5), the Commission should eliminate the words, "other than Basic Service."

Removing the words "other than Basic Service" from Rule 7.1(5) would have no effect on the existing pricing flexibility constraints. General Rule 7.3.1 expressly reserves the effectiveness of a same-day advice letter if the Commission has ordered an advice letter to go into effect on a date different from that otherwise provided in GO 96-B. Accordingly, all current restrictions on modifying basic service remain intact regardless of whether it may fall under

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[10] *Id.* at 39.

[11] *See* D.06-08-030, *mimeo*, pp. 154, 192, 201-202, 267 (Finding of Fact 71), 268 (Findings of Fact 78-79), 276 (Conclusions of Law 29, 35), 280 (Ordering Paragraph 3); *see also* Decision No. 06-12-044, *Order Modifying and Granting Limited Rehearing of D.06-08-030, and Denying Rehearing of Decision, as Modified, in All Other Respects*, 2006 WL 3831388 (Cal.P.U.C. Dec. 14, 2006), *mimeo*, p. 43.

provision (5) of Rule 7.1. The basic service exemption in Rule 7.1(5) serves no useful purpose and should be eliminated considering the restriction against pricing flexibility will be lifted on January 1, 2009.

Reference to Resale Service should also be removed from this Rule. The tier designation for a resale service advice letter should be consistent with the tier designation for its corresponding retail service advice letter. For those resale services for which the corresponding retail service is detariffed or introduced on a non-tariffed basis, the resale service advice letter should be filed in Tier 1. Eliminating the erroneous resale service exclusion from Rule 7.1(5) will permit an URF Carrier to file its resale advice letters under Rule 7.1(5) as a regulated service, whether the corresponding retail service is tariffed or not.

I. Rule 7.1(6) Is Unnecessary And Confusing.

Rule 7.1(6) designates resale advice letters appropriate for Tier 1 treatment if linked to a tariffed service rate or charge change, while leaving uncertain the appropriate tier treatment for resale advice letters linked to a non-tariffed service. This Rule is duplicative and potentially confusing. As long as the Commission eliminates the erroneous resale service exclusion from Rule 7.1(5), an URF Carrier may file its resale advice letter under Rule 7.1(5) as a regulated service. This will ensure that resale advice letters will be filed in accordance with Decision 06-08-030 regardless of whether the underlying retail service is tarriffed or non-tariffed.

Moreover, Rule 7.1(6)'s criteria regarding notice requirements under Industry Rules 3 and 3.3 is unnecessary. The first paragraph of Rule 7.1 clarifies all notice requirements. When submitting an advice letter under any matter listed in Rule 7.1, the utility represents that applicable customer notice requirements in Rules 3 – 3.3 have been satisfied. This rule need not be repeated in Rule 7.1(6). Rule 7.1(6)'s notice requirement is also confusing to the extent it applies Rule 3 to notification requirements for CLECs that resell services. Notice to CLECs that resell a carrier's service is governed by their interconnection agreements.

On these grounds, AT&T California proposes that Rule 7.1(6) be eliminated in its entirety and the first sentence in Rule 7.1 be adjusted as follows:

> By submitting an advice letter in Tier 1, a Utility represents that the advice letter is properly filed in Tier 1, and that the Utility has complied with the applicable customer notice requirements, as set forth in Industry Rules 3 to 3.3 ~~and as referenced in this Industry Rule 7.1~~. Pursuant to General Rule 4.2, the Utility must …

J. Emergency Services Should Be Submitted By Way Of An Information-Only Filing.

Rule 7.1(12) requires an URF Carrier to file an advice letter for Emergency Services provided pursuant to General Rule 8.2.3. While this requirement may be appropriate for services that are tariffed, it is not appropriate for detariffed services. Prior to the effectiveness of General Rule 8.2.3, AT&T California had the authority to make services available in emergency situations pursuant to a General Regulation in its tariff that permits the waiving of charges in emergency circumstances.[12] When a disaster occurred, AT&T California would send a letter to the Director of the Commission's Communications Division and identify which charges would be waived for the victims of the disaster. AT&T California proposes that Rule 7.1(12) be eliminated and that a new provision be added under Rule 8 directing URF Carriers to make an information-only filing that describes any charges an URF Carrier is waiving for the victims of a disaster. A corresponding change would also need to be made in Ordering Paragraph 6 which revises General Rule 8.2.3. Alternatively, Rule 7.1(12) could be modified as follows to apply only to tariffed services provided by an URF Carrier:

> Emergency Service provided by an URF Carrier pursuant to General Rule 8.2.3 <u>when the service being provided is tariffed.</u>

K. Rule 7.4 Is An Unlawful Delegation Of Final Discretionary Decision-making Authority To Staff And Inconsistent With URF Policies.

Rule 7.4 delegates the authority to reject an already effective advice letter to Staff should Staff believe formal proceedings are necessary. No due process is afforded to carriers under this rule. Once staff determines that the merits of the carrier's advice letter justify rejection on grounds that hearings are needed, the utility has no recourse but to proceed in a formal proceeding. Such discretionary authority imposes grave consequential repercussions on already

[12] *See* AT&T California Schedule Cal. P.U.C. Nos. A2.1.24 (paragraph D) and D2.12.

effective advice letters filed under Tier 1, without any Commission consideration and ruling. The scope of this rule falls well outside the ministerial role staff is limited to under Decision 02-02-049 and is inconsistent with URF policies.

Decision 02-02-049 recognized that agencies cannot delegate the power to make fundamental policy decisions or "final" discretionary decisions. The Commission may only act in a practical manner and delegate authority to investigate, determine facts, make recommendations, and draft proposed decisions to be adopted or ratified by the Commission.[13] Though staff retained some discretionary authority regarding the administration of advice letter filings, the Commission made clear that:

> … [W]e ourselves determine all fundamental policies and will make all necessary discretionary orders regarding the merits of advice letters.[14]

Staff was, therefore, given the authority to suspend advice letters that might otherwise go into effect at the end of the notice period.[15] Staff was also given the authority to reject or dispose of advice letters on a ministerial basis.[16] Under both scenarios, staff's authority was ministerial because they were limited to reviewing advice letters before the proposed tariffs became effective. Staff's actions had no final implication on an existing tariff based on the merits of the advice letter. The Commission "retain[ed] full control over any substantive discretionary decision associated with any advice letter filing."[17] As the Commission explained:

> Rather than permitting advice letters to become effective by default, and then holding hearings to consider whether it is necessary to "alter or modify them," we find it more sensible and appropriate to affirm staff's authority to suspend advice letters so they may be reviewed before the proposed tariffs become effective. Our approach sidesteps continuity problems that may result if tariffs go into effect by default, and then are thereafter altered or

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[13] *Re Application of California Association of Competitive Telecommunications Companies for Rehearing of Resolution M-4801*, Decision No. 02-02-049, *Order Modifying Resolution M-4801 and Denying Rehearing of the Decision as Modified*, 2002 WL 467999 (Cal.P.U.C. Feb. 21, 2002), *mimeo*, pp. 5-9.
[14] *Id.* at 12.
[15] *Resolution Confirming Staff's Authority to Suspend the Effectiveness of Advice Letter Filings of Tariff Changes*, Resolution M-4801, p. 3 (Apr. 19, 2001).
[16] D.02-02-049, *mimeo*, p 15.
[17] Resolution M-4801, p. 8.

modified by the Commission after a hearing.[18]

Under URF, however, Tier 1 advice letters are effective immediately and staff cannot suspend an already effective advice letter.[19] The rationale behind this rule is that in a competitive market with light-handed regulation, few, if any, valid grounds for challenge exist. Following this same principle, permitting staff to analyze the merits of a Tier 1 advice letter and unilaterally reject its effectiveness without a Commission determination of whether rejection is appropriate should be deemed unlawful. The light-handed regulatory policies established in URF Phase I certainly do not endorse such substantive discretionary decision-making authority for staff.

Should Rule 7.4 be approved as currently drafted, staff will have the unfettered authority to render a final determination on Tier 1 tariffs based on their own adjudication of the merits of the advice letter. The effectiveness of the advice letter ceases immediately and the Commission has no role in deciding whether or not the rejection is justified. This process radically departs from the ministerial authority outlined in Decision 02-02-049.

In order to correct Rule 7.4 and ensure conformance with Decision 02-02-049, AT&T California proposes the following amendments:

> The Commission ~~Staff~~ will reject without prejudice a~~n~~ Tier 1 advice letter that requests relief or raises issues requiring an evidentiary hearing or otherwise requiring review in an application, petition for modification, or other formal proceeding. (See General Rules …

Requiring the Commission to reject an effective advice letter ensures that the Commission retains full control over all substantive discretionary decisions associated with advice letter filings.

L. Rules Governing Transfers And Withdrawal Of Basic Service Should Not Be Incorporated In GO 96-B.

GO 96-B only governs informal matters, such as advice letters and information-only filings, submitted to the Commission. It does not govern matters requiring formal proceedings

[18] D.02-02-049, *mimeo*, p. 14 (quoting Resolution M-4801, p. 8).
[19] *See* Draft Detariffing Decision, pp. 19 (fn. 35, citing D.07-01-024, p. 15), 26-30, 65-66 (Findings of Fact 7, 11).

such as applications and modifications. Decision 06-10-021 adopted Mass Migration Guidelines ("MMGs") in the instance a Competitive Local Exchange Carrier ("CLEC") seeks to discontinue providing local exchange services to its customers. The guidelines incorporate a comprehensive list of customer notifications and a detailed application process. A mass migration of CLEC customers cannot be accomplished through an advice letter. Accordingly, it seems anomalous to insert random and incomplete rules on Transfer and Withdrawing Basic Service, both of which require formal proceedings, in a body of rules governing informal proceedings.

Permitting both sets of rules to govern Transfers and Withdrawals collectively will cause conflicting directives and create substantial confusion. For example, the MMGs require exiting CLECs to file an application and Exit Plan. To the contrary, Rule 8.6.2 seems to suggest that approval of the transfer requires the arranged or default carrier to submit an advice letter. Rule 8.5, on the other hand, requires an application to withdraw basic service in conformance with the MMGs but imposes varying notice requirements for resale providers verses facility-based providers.[20] Notice requirements do not differ under the MMGs based on whether the exiting CLEC is a reseller or uses its own facilities. Rule 3.1 also appears to conflict with the MMGs by requiring the utility to identify the new service provider. Under the MMGs, the exiting CLEC's initial notice need not identify the new service provider in the instance it seeks to have a default provider appointed.

As discussed in section II.F, above, the Commission finds the duplication of existing regulations inefficient and potentially confusing. The above-referenced rules are particularly confusing because (1) they are located in a General Order governing informal proceedings only, (2) they conflict with the MMGs, and (3) contain vague terms and conditions for Transfer and Withdrawing Basic Service. For example, Rule 3 appears to require the exiting carrier to distribute a thirty-day notification to its customers before an advice letter requesting approval of a Transfer or Withdrawing Basic Service is submitted. However, the Industry Rules do not

[20] *See also* Rule 3.2 which contains varying customer notification requirements between resellers of basic service and facilities-based carriers.

provide for the exiting carrier to submit an advice letter in such cases. The only advice letter instruction is contained in Rule 8.6.2 and that requirement is imposed on the acquiring carrier, not the exiting carrier.

Finally, Rule 8.6.1 is unnecessary and potentially confusing. It purports to dictate when an application must be submitted for transfers. It fails to recognize however, that applications are not always required, even for URF Carriers that are Incumbent Local Exchange Carriers ("ILECs"). For example, the Section 851 Pilot Program adopted in Resolution ALJ-186[21] specifically authorized the use of advice letters for certain types of transactions governed by Section 851.

Rulemaking 03-06-020 remains open and is currently considering, among other matters, whether the MMGs should apply to other types of customer migrations. Comments and reply comments were filed in January and February 2007. Considering the limited scope of GO 96-B, Rulemaking 03-06-020 is the best forum for analyzing the foregoing rules and finalizing a comprehensive body of regulations governing all migrations, Transfers, and Withdrawing Basic Service. Retaining Transfer and Withdrawing Basic Service rules in GO 96-B will do nothing more than perpetuate conflicting regulations and create further confusion. Accordingly, Rules 1.13, 3.1, 3.2, 8.5, 8.6.1 - 8.6.3[22] should be deleted.[23] The Commission should also direct the transfer of the outstanding issues of Transfer and Withdrawal of Basic Service to Rulemaking 03-06-020 for further review and disposition.

[21] August 25, 2005.
[22] Rule 8.6.3's information-only filing requirements for wireless carriers appears to conflict with the requirements set forth in Decision 95-10-032. The Commission should defer to 95-10-032 rather than place a duplicative and potentially confusing rule here.
[23] References to Transfer should be deleted from Rules 3, 5.3, and 7.2(4). Provisions governing Withdrawing Basic Service should be deleted from Rule 3.2.

III. CONCLUSION

The Commission's proposed Industry Rules for General Order 96-B, as amended herein, appropriately reflect the uniform regulatory framework of California's telecommunications industry. For all the reasons set forth above, AT&T California respectfully requests the Commission modify GO 96-B to reflect the changes discussed above.

Dated at San Francisco, California, this 13th day of August 2007.

Respectfully submitted,

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Appendix A: AT&T California's Recommended Revisions to Proposed Decision's Findings of Fact and Conclusions of Law

Findings of Fact

1. The Commission adopted the General Rules of GO 96-B, applicable to the handling of advice letters in all utility industries including telecommunications, in D.07-01-024.

2. Four rounds of comments were received on the 2001 draft rules, which were based on the New Regulatory Framework. Two further rounds of comments were received in March 2007, following the Commission's adoption of D.07-01-024 and D.06-08-030 (the Phase I decision in the URF rulemaking).

3. The Phase II scoping memo in the URF rulemaking and Ordering Paragraph 6 of D.07-01-024 both invited the parties to comment on how GO 96-B should be coordinated with URF.

4. The chief task in coordinating GO 96-B with URF is revising the allocation of subject matter to the three advice letter tiers so as to reflect the change from incentive regulation under the New Regulatory Framework to full pricing flexibility for most services under the Uniform Regulatory Framework.

5. Although the 2001 draft rules were based on the New Regulatory Framework, they provide a procedural template for advice letters under URF.

6. The structure of the 2001 draft rules requires no change for purposes of URF.

7. Many regulatory distinctions can be deleted from the 2001 draft rules because the distinctions have become unnecessary or counter-productive with the growth of competition and technological advances in the telecommunications industry.

8. No showing of cost justification need accompany an URF Carrier's advice letter submitting a contract for tariffed service.

9. The date of filing is the day an advice letter is received by the Commission's Communications Division. During the transition period to electronic filing, current filing instructions will be published at the Communications Division's area of the Commission's Internet site (www.cpuc.ca.gov).

10. With the exceptions listed in Industry Rule 5, it is appropriate to allow an URF Carrier to request authority to detariff the carrier's services, in whole or part, by Tier 2 advice letter.

11. The replacement of the New Regulatory Framework with URF does not cause any fundamental shift in Commission policy regarding GRC-LECs.

12. It is appropriate that Resale Service continue to be tariffed.

13. The customer notice rule set forth in Industry Rule 3 applies to all carriers and is competitively neutral.

14. Where a duly-noticed rate increase has already been approved by the Commission, customer notice of a Compliance Advice Letter regarding the increase would be confusing and inappropriate.

15. There is no longer a need to have any carriers include in their tariff books a list of their contracts and other deviations from tariffed service.

16. DRA's proposals for the handling of URF advice letters would require significant modifications to Tier 1 and Tier 2 procedures under GO 96-B, and would also be inconsistent with the GO 96-B protest rule. TURN's proposals are similar to DRA's.

17. Both DRA and TURN recommend that URF advice letters should be subject to suspension by the Commission and that the rate changes proposed in URF advice letters should be subject to protest on grounds of unreasonableness. These recommendations are inconsistent with the full pricing flexibility that the Commission granted to URF Carriers in D.06-08-030.

18. The advice letter service requirements of GO 96-B, which have now been in effect for several years, may be more stringent for some carriers than the requirements that previously applied to those carriers. However, the existing requirements have been in place since D.05-01-032 and treat all carriers equally.

19. A uniform deadline of 15 business days after contract execution is appropriate for submittal to the Commission of a contract for a tariffed service.

The submittal deadline serves the purpose of making public those terms that are currently being made available in the marketplace.

20. It is reasonable that carriers be required to attest to the compliance of their New Service offerings with applicable law.

21. It is reasonable that carriers be required to attest that their New Service offerings will not result in degradation in the quality of other service provided by the carriers.

22. In light of the rate flexibility granted URF Carriers by the Commission in D.06-08-030, it is reasonable to allow an URF Carrier to submit an information-only filing ~~under Tier 1 an advice letter~~ regarding the URF Carrier's provision of service to a government agency or to the public, for free or at reduced rates and charges, under emergency conditions (natural disasters, etc.).

OR IN THE ALTERNATIVE:

22. In light of the rate flexibility granted URF Carriers by the Commission in D.06-08-030, it is reasonable to allow an URF Carrier to submit under Tier 1 an advice letter regarding the URF Carrier's provision of tariffed service to a government agency or to the public, for free or at reduced rates and charges, under emergency conditions (natural disasters, etc.).

Conclusions of Law

1. The Telecommunications Industry Rules set forth in Appendix A should be adopted. These rules govern the filing, review, and disposition of advice letters and information-only filings by regulated carriers. These rules also include requirements regarding the detariffing of services.

2. Most URF Carrier advice letters are suitable for processing under Tier 1 (effective pending disposition).

3. All URF Carriers, included affiliated carriers, should be treated alike for purposes of filing URF advice letters under Tier 1.

Appendix A: AT&T California's Recommended Revisions to Proposed Decision's Findings of Fact and Conclusions of Law

4. Because GRC-LECs continue to be rate-regulated, and in many cases receive rate subsidies, their advice letters generally require regulatory review before going into effect. Thus, most GRC-LEC advice letters should be processed in Tier 2 and Tier 3.

5. Consistent with the Commission's procedures for Mass Migration of customers (D.06-10-021), a Withdrawal of Basic Service should be handled in a formal application. GO 96-B does not govern rules for formal proceedings.

6. A request by an URF Carrier to modify or cancel a provision, condition, or requirement imposed by the Commission in an enforcement, complaint, or merger proceeding should be made to the Commission in a formal application or petition.

7. Industry Rules 5.2 and 5.3 satisfy the requirements of Pub. Util. Code Section 495.7(c)(1) and (2) regarding information that must be made available to consumers by their carrier after it detariffs. Industry Rules 5.2 and 5.3 do not govern in cases where a carrier and a business customer contractually agree to different notice requirements.

8. A carrier's erroneous designation of advice letter tier is not binding on Staff.

9. It is not necessary to respond to those comments on the 2001 draft rules to the extent that the comments are cumulative, refer solely to the New Regulatory Framework or are otherwise moot, or have been responded to already in any of the interim decisions in the GO 96-B rulemaking.

10. For purposes of Industry Rules 1.13, 3, 3.1, and 8.6, a Transfer of customers means a Transfer of the entire customer base or an entire customer class of the carrier. Such a Transfer by a CLEC requires initiation of a formal proceeding consistent with the Commission's procedures for mass migration of customers (D.06-10-021) and is therefore not governed by GO 96-B. Rulemaking 03-06-020 is an open proceeding that is currently reviewing the process for the Transfer of customers, and the most appropriate forum for analyzing such rules.

Appendix A: AT&T California's Recommended Revisions to Proposed Decision's Findings of Fact and Conclusions of Law

11. The customer notice rule set forth in Industry Rule 3 conforms to directions contained in two decisions in the GO 96-B rulemaking and the Phase I decision of the URF rulemaking.

12. General Rule 8.2.3 of GO 96-B should be modified, consistent with Finding of Fact 22, so that an advice letter submitted for provision of service under emergency conditions may be subject to disposition under either General Rule 7.6.1 or General Rule 7.6.2, as specified in the Telecommunications Industry Rules.

13. General Rule 1.1 of GO 96-B should be modified by adding a reference to the Telecommunications Industry Rules. General Rule 7.5.3 should be corrected by changing the reference to "General Rule 5.4" to "General Rule 5.3." General Rule 7.6.2 should be corrected by replacing the references to General Rules 5.4 and 5.5 with a reference to General Rule 5.3. General Rule 8.2.3 should be corrected by changing reference to "advice letter" to "information-only filing."

OR IN THE ALTERNATIVE:

13. General Rule 1.1 of GO 96-B should be modified by adding a reference to the Telecommunications Industry Rules. General Rule 7.5.3 should be corrected by changing the reference to "General Rule 5.4" to "General Rule 5.3." General Rule 7.6.2 should be corrected by replacing the references to General Rules 5.4 and 5.5 with a reference to General Rule 5.3. General Rule 8.2.3 should be corrected by replacing the references to "emergency service" with a reference to "emergency tariffed service."

14. The Telecommunications Industry Rules set forth in Appendix A should be codified with GO 96-B, as adopted in D.07-01-024 and as modified by today's decision.

15. Today's order should be made effective immediately, and the Telecommunications Industry Rules set forth in Appendix A should be made

applicable to all telecommunications advice letters or information-only filings submitted 30 days from the effective date of today's order or thereafter.

16. R.98-07-038 should be closed.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **PACIFIC BELL TELEPHONE COMPANY D/B/A AT&T CALIFORNIA'S (U 1001 C) COMMENTS ON DRAFT OPINION ADOPTING TELECOMMUNICATIONS INDUSTRY RULES**, filed today in **R.05-04-005**/**R.98-07-038** by electronic mail and/or by hand-delivery to the persons on the attached consolidated Service List in **R.05-04-005**.

Executed this 13th day of August 2007, at San Francisco, California.

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/s/
Morena E. Lobos

CALIFORNIA PUBLIC UTILITIES COMMISSION
Service Lists

Proceeding: R0504005 - CPUC - PAC BELL, VER
Filer: CPUC - FRONTIER COMMUNICATIONS OF CALIFORNIA
List Name: INITIAL LIST
Last changed: August 9, 2007

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